IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 16 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GSRTC - Appellant(s)
Versus
MAGANBHAI RAISINHBHAI MAHESHWARI & 1 - Defendant(s)

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Appearance :
MRS VASAVDATTA BHATT for Appellant(s) : 1,
MR PN BAVISHI for Defendant(s) : 1,
DELETED for Defendant(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 30/08/2006

ORAL JUDGMENT

1. By way of this appeal, the appellant has challenged the judgment and order dated 16.11.98

passed by MACT (Aux.) Kutch (Bhuj) in MACP No. 420/90, whereby the Tribunal has awarded Rs 74,820/- with interest @ 15% from the date of the petition till realisation of payment.

2. The case of the claimant was that on 28.7.90, the son of opponent No. 1 Shri Kishorebhai was riding on a bicycle from Adipur Maghezanda Chowk to Chosath Bazar at &:30 p.m He was taking turn from Madansingh chowk. At the relevant time, an ST bus bearing No. GRU 6650 came with full speed and knocked him down. He was thrown result of which he sustained serious injuries and died on the spot.

4. Learned advocate for the appellant has contended that the Tribunal has allowed the claim and awarded to Rs 74, 820/- to the claimant along with the interest @ 15% per annum from the date of petition till realisation. According to him the Tribunal ought not to have awarded interest at the rate of 15%.

5. The incident is of the year 1998. It is of

course true that it is the discretion of the Tribunal to award interest. However such discretion is to be exercised judicially. The incident is of the year 1998. Looking to the downward trend of the interest I am of the view that the rate of interest awarded is on higher side. The case reported in 1997 ACJ 571. The Apex Court has granted interest at 9%. I am therefore of the view that interest of justice would be met by awarding interest at the rate of 9% instead of 15%.

6. In the premises aforesaid the interest as awarded by the Tribunal is reduced to 9% from 15%. The award of the Tribunal is modified accordingly. However, if the amount is already withdrawn by the original claimants, the same shall not be recovered and it will be open for the insurance company to recover the same from the owner and if the amount is not paid to the claimants it will be open for the claimants to recover the different amount from the owner of the vehicle. Appeal is allowed to the aforesaid extent, with no order as to costs.

(K.S.Jhaveri,J)

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